



General Assembly

January Session, 2009

Committee Bill No. 725

LCO No. 4724

04724SB00725JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

**AN ACT CONCERNING REFORMS RELATED TO CONDOMINIUMS
AND OTHER COMMON INTEREST COMMUNITIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 47-74a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) (1) When unit owners other than the declarant own more than
4 one-third of the units in the condominium, they shall be entitled to
5 elect not less than one-third of the members of the board of directors of
6 the unit owners' association. Unit owners other than the declarant shall
7 elect not less than a majority of the members of the board of directors
8 of the unit owners' association not later than five years after the date of
9 the recording of the original declaration, and, prior to the expiration of
10 such five-year period, shall be entitled to elect not less than a majority
11 of the members of the board of directors upon the happening of the
12 earlier of the following two events: [(1)] (A) Sale by declarant of sixty
13 per cent of the units in the condominium, or [(2)] (B) completion of
14 seventy-five per cent of the units in the condominium, with some such
15 units having been sold, but no more than six units having been sold in
16 the six-month period preceding the call for an election pursuant to

17 subsection (b) [hereof] of this section. All references in this subsection
18 to "units in the condominium" shall mean the aggregate of the units
19 shown in the survey and plans filed with the original declaration
20 pursuant to section 47-71 and the units shown in the survey and plans
21 filed with any amendment to the declaration covering additional lands
22 added to the condominium property, prior to the date on which the
23 requisite proportion of units is attained. The declarant shall be entitled
24 to designate not less than one member of the board of directors of the
25 unit owners' association so long as he holds for sale in the ordinary
26 course of business ten per cent or more of the units in such
27 condominium.

28 (2) With respect to any member of the board of directors serving or
29 elected on or after October 1, 2009, no such member may serve more
30 than six years in the aggregate, and no such member may serve if the
31 member has a direct or indirect familial relationship with any other
32 director serving concurrently. The bylaws shall include the
33 requirements of this subdivision in the manner set forth in section 47-
34 80, as amended by this act, and shall provide a process for determining
35 which member, if any, shall continue to serve if two or more members
36 of the board of directors have a direct or indirect familial relationship
37 with each other on or after said date.

38 (b) At any time after unit owners other than the declarant are
39 entitled to elect a member or members of the board of directors of an
40 association, the association shall call and give not less than thirty nor
41 more than forty days notice of a meeting of the unit owners for this
42 purpose. Such meeting may be called and the notice given by any unit
43 owner if the association fails to do so.

44 (c) So long as the declarant owns ten per cent or more of the units in
45 the condominium for sale in the ordinary course of business, no action
46 may be taken by the association that would be detrimental to the sales
47 of units by the declarant without written agreement thereto by the
48 declarant, [;] provided that an increase in assessments for common

49 expenses or imposition of any special assessment without
50 discrimination against the declarant shall not be deemed to be
51 detrimental to the sale of units.

52 (d) Within thirty days after unit owners other than the declarant
53 elect a majority of the members of the board of directors of an
54 association, the declarant shall relinquish control of the association and
55 shall deliver to the association all property of the unit owners and of
56 the association held by or controlled by the declarant, including
57 without limitation the following items, as to each condominium
58 operated by the association: (1) The original or a certified copy or a
59 photocopy of the recorded condominium declaration, provided if a
60 photocopy is delivered, such photocopy shall reflect the recording
61 information and shall be certified by an affidavit executed by the
62 declarant as a true and complete copy of the actual recorded
63 declaration; the association articles of incorporation, if it be an
64 incorporated association; bylaws; minute books and other books and
65 records of the association, if any; and any house rules and regulations
66 which may have been promulgated; (2) resignations of officers and
67 members of the board of directors who may be required to resign by
68 reason of the requirement that the declarant relinquish control of the
69 association; (3) an accounting or accountings for association funds.
70 Such accounting or accountings shall have been audited by an
71 independent certified public accountant. The declarant shall be liable
72 to the association for all funds of the association that are not properly
73 expended and which were collected during the period of time that the
74 declarant controlled the board of directors of the association; (4)
75 association funds or control thereof; (5) all of the declarant's tangible
76 personal property that has been represented by the declarant in
77 brochures or other writings to be a part of the common elements, or
78 that is necessary for, and has been used exclusively in, the operation
79 and enjoyment of the common elements, or that is property of the
80 association, and inventories of these properties; (6) a copy of the plans
81 and specifications utilized in the construction of the improvements and
82 the supplying of equipment to the condominium and for the

83 construction and installation of all mechanical components serving the
84 improvements and the site, in condominiums for which building
85 permits have been issued after January 1, 1977, with respect to such
86 buildings together with a certificate in affidavit form of the declarant
87 that such plans and specifications are substantially to the best of the
88 knowledge, information and belief of the declarant, the actual plans
89 and specifications utilized in and about the construction and
90 improvement of the condominium property and for the construction
91 and installation of the mechanical components thereof and a certificate
92 or certificates in affidavit form of one or more architects or engineers
93 authorized to practice in the state that the plans and specifications
94 referred to in each such certificate represent to the best of the
95 knowledge, information and belief of each such architect or engineer
96 the actual plans and specifications utilized in and about the
97 construction and improvement of the condominium property and for
98 the construction and installation of the mechanical components
99 thereof, or of the portions of such condominium property or
100 mechanical components described in each certificate. The declarant's
101 certificate shall also state that the one or more architect's or engineer's
102 certificates cover all of such plans and specifications. In the event that
103 the construction of the improvements shall have been completed more
104 than three years before the property shall have been declared a
105 condominium, then the requirements of this subdivision shall not
106 apply. If, however, the improvements on the condominium property
107 submitted to condominium ownership shall have been substantially
108 rehabilitated, renovated or remodeled within three years prior to the
109 recording of the condominium declaration, then the requirements of
110 this subdivision shall apply to the plans and specifications used in
111 connection with such work; (7) all insurance policies then in force, in
112 which the unit owners, the association, or its directors and officers are
113 the named assured; (8) copies of any certificates of occupancy which
114 may have been issued with respect to any improvements comprising
115 the condominium; (9) any other permits issued by governmental
116 bodies applicable to the condominium property and which are

117 currently in force or which were issued within one year prior to the
118 date on which unit owners other than the declarant took control of the
119 association; (10) written warranties of the contractor, subcontractors,
120 suppliers and manufacturers that are still effective; (11) a roster of unit
121 owners and mortgagees and their addresses and telephone numbers, if
122 known, as shown on the declarant's records; (12) employment
123 contracts in which the association is or is to be one of the contracting
124 parties; (13) service contract in which the association is or is to be one
125 of the contracting parties or service contract in which the association or
126 the unit owners have directly or indirectly an obligation or
127 responsibility to pay some or all of the fee or charge of the person or
128 persons performing the services; (14) one or more architect's or
129 engineer's certificates certifying to the best of the knowledge,
130 information and belief of each such architect or engineer that the
131 portions of the common elements, for which building permits have
132 been issued after January 1, 1977, referred to in each such certificate
133 have been constructed substantially in accordance with the plans and
134 specifications therefor and a certificate of the declarant that the one or
135 more architect's or engineer's certificates delivered cover all common
136 elements described in such plans and specifications, and that the
137 common elements have been constructed substantially in accordance
138 with the plans and specifications for which such certificates are
139 required and the representations with regard thereto made by the
140 declarant in the disclosures required by this chapter; and (15) the
141 requirements of subdivisions (6) and (14) of this subsection shall not
142 apply to condominium property constructed prior to January 1, 1977.

143 Sec. 2. Section 47-80 of the general statutes is repealed and the
144 following is substituted in lieu thereof (*Effective October 1, 2009*):

145 (a) The administration of every condominium shall be governed by
146 bylaws, a copy of which shall be annexed to the declaration and
147 recorded as a part thereof. No modification of or amendment to the
148 bylaws shall be of legal effect until set forth in an amendment to the
149 declaration and such amendment is recorded.

150 (b) Each residential unit in the condominium, other than in a
151 nonresidential condominium, shall be entitled to a vote in the unit
152 owners' association in proportion to its interest in the common
153 elements established pursuant to subsection (b) of section 47-74. If a
154 unit is owned by more than one person, the bylaws shall set forth the
155 method by which the vote attributable to such unit is to be cast and
156 counted.

157 (c) The bylaws shall provide for the following: (1) The election from
158 among the unit owners of a board of directors, the number of persons
159 constituting and the term of office of such board; a provision that the
160 terms of at least one-third of such board shall expire annually; the
161 powers and duties of the board; the compensation, if any, of the
162 directors; the method of removal from such board; and the powers of
163 the board in engaging the services of a manager or managing agent;
164 provided, (A) during the first five years following the recording of the
165 declaration pursuant to the provisions of this chapter and so long as
166 the declarant is the owner of any units, the bylaws may provide for a
167 board of directors which consists of persons other than unit owners,
168 [and] (B) the bylaws may provide that a unit owner's spouse, having
169 no ownership interest, may be a director if such spouse is a resident of
170 the condominium, (C) on and after October 1, 2009, the bylaws shall
171 provide that no director serving or elected on or after said date may (i)
172 serve more than six years in the aggregate, or (ii) have a direct or
173 indirect familial relationship with any other director serving
174 concurrently, and (D) on and after October 1, 2009, the bylaws shall
175 provide a process for determining which director, if any, shall continue
176 to serve if two or more directors have a direct or indirect familial
177 relationship with each other on or after said date; (2) the method of
178 calling meetings of the unit owners; and the percentage, if other than a
179 majority, of unit owners which shall constitute a quorum; (3) the
180 qualifications of the officers of the association, and their powers,
181 duties, manner of selection and removal and term and compensation,
182 if any; (4) maintenance, repair and replacement of the common
183 elements and payments therefor, including the method of approving

184 payment vouchers; (5) the manner of assessing against and collecting
185 from the unit owners their share of the common expenses; (6)
186 designation and removal of personnel necessary for the maintenance,
187 repair and replacement of the common elements; (7) the method of
188 adopting and amending administrative rules and regulations
189 governing the details of the operation and use of the common
190 elements; (8) such restrictions on and requirements respecting the use
191 and maintenance of the units and the use of the common elements as
192 are not set forth in the declaration, designed to prevent unreasonable
193 interference with the use of their respective units and of the common
194 elements by the several unit owners; (9) such provisions governing the
195 alienation, conveyance, sale, leasing, purchase, ownership and
196 occupancy of units as are deemed desirable; (10) such provisions for
197 the establishment of reserves to provide for maintenance,
198 improvements, replacements, working capital, bad debts, depreciation,
199 obsolescence, and similar purposes as are deemed desirable, except
200 that for a conversion condominium, provisions for reserves for capital
201 expenditures shall be required; (11) the manner by which the bylaws
202 may be modified or amended, consistent with the provisions of this
203 chapter, provided that no amendment shall be contrary to the
204 requirements of this section; and (12) other provisions deemed
205 necessary for the administration of the condominium consistent with
206 this chapter.

207 (d) Notwithstanding the provisions of section 47-90c, a
208 condominium unit owners' association may adopt or amend its bylaws
209 to provide that a unit owner's spouse, having no ownership interest,
210 may be a director if such spouse is a resident of the condominium.

211 Sec. 3. Section 47-245 of the general statutes is repealed and the
212 following is substituted in lieu thereof (*Effective October 1, 2009*):

213 (a) Except as provided in the declaration, the bylaws, subsection (b)
214 of this section, or other provisions of this chapter, the executive board
215 may act in all instances on behalf of the association. In the performance

216 of their duties, officers and members of the executive board appointed
217 by the declarant shall exercise the degree of care and loyalty required
218 of a trustee and officers and members of the executive board not
219 appointed by a declarant shall exercise the degree of care and loyalty
220 required of an officer or director of a corporation organized under
221 chapter 602.

222 (b) The executive board may not act on behalf of the association to
223 amend the declaration, to terminate the common interest community
224 or to elect members of the executive board or determine the
225 qualifications, powers and duties, or terms of office of executive board
226 members, but the executive board may fill vacancies in its membership
227 for the unexpired portion of any term.

228 (c) Notwithstanding any provision of the declaration or bylaws to
229 the contrary, within thirty days after adoption of any proposed budget
230 for the common interest community, the executive board shall provide
231 a summary of the proposed budget to all the unit owners and shall set
232 a date for a meeting of the unit owners to consider ratification of the
233 proposed budget not less than fourteen or more than thirty days after
234 hand-delivery or mailing of the summary. At such meeting, or on a
235 day prior to such meeting, the executive board shall provide a
236 reasonable opportunity for all unit owners to express their views
237 concerning the proposed budget before its ratification. At least one
238 copy of the proposed budget shall be available for inspection at such
239 meeting. Unless at such meeting a majority of all unit owners, or any
240 larger vote specified in the declaration, reject the proposed budget, the
241 budget is ratified, whether or not a quorum is present. In the event the
242 proposed budget is rejected, the periodic budget last ratified by the
243 unit owners shall be continued until such time as the unit owners
244 ratify a subsequent budget proposed by the executive board as
245 provided in this subsection.

246 (d) Subject to the provisions of subsection (e) of this section, the
247 declaration may provide for a period of declarant control of the

248 association, during which a declarant, or persons designated by [him]
249 the declarant, may appoint and remove the officers and members of
250 the executive board. Regardless of the period provided in the
251 declaration, a period of declarant control terminates no later than the
252 earlier of: (1) Sixty days after conveyance of sixty per cent of the units
253 that may be created to unit owners other than a declarant, except that
254 in the case of a master planned community, control terminates no later
255 than sixty days after conveyance to unit owners other than the
256 declarant of sixty per cent of the maximum number of units that may
257 be built, if that number is specified, or, if no such number is specified,
258 after conveyance to unit owners other than the declarant of three
259 hundred units; (2) two years after all declarants have ceased to offer
260 units for sale in the ordinary course of business; (3) two years after any
261 right to add new units was last exercised; or (4) the date the declarant,
262 after giving written notice to unit owners, records an instrument
263 voluntarily surrendering all rights to control activities of the
264 association. A declarant may voluntarily surrender the right to appoint
265 and remove officers and members of the executive board before
266 termination of that period, but in that event the declarant may require,
267 for the duration of the period of declarant control, that specified
268 actions of the association or executive board, as described in a
269 recorded instrument executed by the declarant, be approved by the
270 declarant before they become effective.

271 (e) Not later than sixty days after conveyance of one-third of the
272 units that may be created to unit owners other than a declarant, at least
273 one member and not less than one-third of the members of the
274 executive board shall be elected by unit owners other than the
275 declarant.

276 (f) (1) Except as otherwise provided in subsection (e) of section 47-
277 239, not later than the termination of any period of declarant control,
278 the unit owners shall elect an executive board of at least three
279 members, at least a majority of whom shall be unit owners. The
280 executive board shall elect the officers. The executive board members

281 and officers shall take office upon election.

282 (2) Notwithstanding the provisions of subsection (e) of section 47-
283 239, with respect to any member of the executive board serving or
284 elected on or after October 1, 2009, no such member may serve more
285 than six years in the aggregate or have a direct or indirect familial
286 relationship with any other member serving concurrently. The bylaws
287 shall include the requirements of this subdivision in the manner set
288 forth in section 47-248, as amended by this act, and shall provide a
289 process for determining which member, if any, shall continue to serve
290 if two or more members of the executive board have a direct or
291 indirect familial relationship with each other on or after said date.

292 (g) Notwithstanding any provision of the declaration or bylaws to
293 the contrary, the unit owners, by a two-thirds vote of all persons
294 present and entitled to vote at any meeting of the unit owners at which
295 a quorum is present, may remove any member of the executive board
296 with or without cause, other than a member appointed by the
297 declarant.

298 (h) Within thirty days after unit owners other than the declarant
299 elect a majority of the members of the executive board, the declarant
300 shall deliver to the association all property of the unit owners and of
301 the association held by or controlled by the declarant, including
302 without limitation the following items: (1) The original or a certified
303 copy of the recorded declaration as amended; the association articles of
304 incorporation, if the association is incorporated; bylaws; minute books
305 and other books and records of the association; and any rules and
306 regulations which may have been promulgated; (2) an accounting for
307 association funds and financial statements, from the date the
308 association received funds and ending on the date the period of
309 declarant control ends. The financial statements shall be audited by an
310 independent certified public accountant and shall be accompanied by
311 the accountant's letter, expressing either (A) the opinion that the
312 financial statements present fairly the financial position of the

313 association in conformity with generally accepted accounting
314 principles, or (B) a disclaimer of the accountant's ability to attest to the
315 fairness of the presentation of the financial information in conformity
316 with generally accepted accounting principles, and the reasons
317 therefor. The expense of the audit shall not be paid for or charged to
318 the association; (3) association funds or control thereof; (4) all of
319 declarant's tangible personal property that has been represented by the
320 declarant to be the property of the association or, unless the declarant
321 has disclosed in the public offering statement that all such personal
322 property used in the common interest community will remain the
323 declarant's property, all of the declarant's tangible personal property
324 that is necessary for, and has been used exclusively in, the operation
325 and enjoyment of the common elements, and inventories of these
326 properties; (5) a copy of any plans and specifications used in the
327 construction of the improvements in the common interest community
328 which were completed within two years before the declaration was
329 recorded; (6) all insurance policies then in force, in which the unit
330 owners, the association or its directors and officers are named as
331 insured persons; (7) copies of any certificates of occupancy that may
332 have been issued with respect to any improvements comprising the
333 common interest community; (8) any other permits issued by
334 governmental bodies applicable to the common interest community
335 and which are currently in force or which were issued within one year
336 prior to the date on which unit owners other than the declarant took
337 control of the association; (9) written warranties of the contractor,
338 subcontractors, suppliers and manufacturers that are still effective; (10)
339 a roster of unit owners and mortgagees and their addresses and
340 telephone numbers, if known, as shown on the declarant's records; (11)
341 employment contracts in which the association is a contracting party;
342 and (12) any service contract in which the association is a contracting
343 party or in which the association or the unit owners have any
344 obligation to pay a fee to the persons performing the services.

345 (i) During the period of declarant control, the declarant shall, at
346 least every six months, provide the unit owners with a current

347 financial statement of the association. The statement shall be on a cash
348 basis and need not be audited by an independent accountant. It shall
349 include, without limitation, (1) all income and expenses for the
350 calendar year to date; (2) all accounts payable and receivable,
351 including the ages of those accounts and showing all sums due to and
352 from the declarant and affiliates of the declarant; (3) the amount of any
353 funded replacement reserves; and (4) the balance of any other funds of
354 the association.

355 Sec. 4. Section 47-248 of the general statutes is repealed and the
356 following is substituted in lieu thereof (*Effective October 1, 2009*):

357 (a) The bylaws of the association shall provide for: (1) The number
358 of members of the executive board and the titles of the officers of the
359 association; (2) election by the executive board of a president,
360 treasurer, secretary and any other officers of the association the bylaws
361 specify; (3) the qualifications, powers and duties, terms of office and
362 manner of electing and removing executive board members and
363 officers and filling vacancies; (4) which, if any, of its powers the
364 executive board or officers may delegate to other persons or to a
365 managing agent; (5) which of its officers may prepare, execute, certify
366 and record amendments to the declaration on behalf of the association;
367 and (6) a method for amending the bylaws. On and after October 1,
368 2009, the bylaws shall provide that no member of the executive board
369 serving or elected on or after said date may (A) serve more than six
370 years in the aggregate, or (B) have a direct or indirect familial
371 relationship with any other member serving concurrently. On and
372 after October 1, 2009, the bylaws shall provide a process for
373 determining which member, if any, shall continue to serve if two or
374 more members of the executive board have a direct or indirect familial
375 relationship with each other on or after said date.

376 (b) Subject to the provisions of the declaration, the bylaws may
377 provide for any other matters the association deems necessary and
378 appropriate.

This act shall take effect as follows and shall amend the following sections:

| | | |
|-----------|------------------------|--------|
| Section 1 | <i>October 1, 2009</i> | 47-74a |
| Sec. 2 | <i>October 1, 2009</i> | 47-80 |
| Sec. 3 | <i>October 1, 2009</i> | 47-245 |
| Sec. 4 | <i>October 1, 2009</i> | 47-248 |

Statement of Purpose:

To provide that no member of a board of directors of a condominium or the executive board of a common interest community may serve more than six years, and prohibit two or more individuals with a familial relationship from serving on such board concurrently.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. DUFF, 25th Dist.

S.B. 725